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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,021	07/28/2003	Yasuhiko Aoki	064731.0332 (P-269US-1)	7632
5073	7590	09/07/2007	EXAMINER	
BAKER BOTTS L.L.P.			TRAN, DZUNG D	
2001 ROSS AVENUE				
SUITE 600			ART UNIT	PAPER NUMBER
DALLAS, TX 75201-2980			2613	
			NOTIFICATION DATE	DELIVERY MODE
			09/07/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/629,021	AOKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dzung D. Tran	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 20 June 2007.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) 5-12 and 15-19 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2,13,14 and 20 is/are rejected.  
 7) Claim(s) 3 and 4 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Specification***

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 13-14 and 20 rejected under 35 U.S.C. 102(e) as being anticipated by Thomas et al. U.S. Patent no. 6,429,974.

Regarding claims 1, 13 and 20, Thomas discloses in Figure 3, a node for an optical network, comprising: at least one transport element operable to be coupled to the optical network, the transport element comprising an add/drop element comprising:

a wide-band demultiplex 302 (i.e., Thomas discloses the demultiplex and demultiplex can be a filter, see col. 3, line 49 to col. 4, line 8) operable to split an incoming signal that comprises traffic in a plurality of sub-bands into a first signal (i.e., sub-band dropped) and a second signal 303, the first signal comprising the traffic in a first sub-band of traffic channels and the second signal comprising the traffic in the remaining sub-bands of traffic channels of the incoming signal;

a bypass element operable to:

receive the traffic in the first sub-band from the rejection filter (e.g., narrow-band demultiplex 306 receive the traffic in the first sub-band (i.e., sub-band dropped), reject the traffic in a first portion of the first sub-band (e.g., drop channels) and forward the traffic in a second portion of the first sub-band (e.g., forward the remain channels of the first sub-band (i.e., sub-band dropped) over line 310; and

an add element (elements 304) operable to:

receive the second signal 303 from the rejection filter 302 ;  
receive the traffic in the second portion of the first sub-band from the bypass element (e.g., signal from 306 thru line 310 to 312 to 304); and combine the traffic in the second signal with the traffic in the second portion of the first sub-band for transport on the network (see figure 3).

Regarding claims 2 and 14, Thomas discloses in Figure 3, the bypass element is further operable to:

terminate the traffic in the rejected first portion of the first sub-band (e.g., drop channels is rejected by narrow-band demultiplex 306);

receive add traffic in the first portion of the first sub-band (e.g., add channels is combined by narrow-band multiplex 312); and combine the add traffic with the traffic in the second portion of the first sub-band (e.g., by wide-band multiplexer 312); and

the add element 304 is further operable to: receive the combined traffic from the bypass element (e.g., thru sub-band added); and combine the traffic received from the

bypass element with the traffic in the second signal (e.g., receive sub-band over 303) for transport on the network.

3. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4, 13-14 and 20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung D Tran whose telephone number is (571) 272-3025. The examiner can normally be reached on 9:00 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2613

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzung Tran  
08/31/2007

*Dzung Tran*  
DZUNG TRAN  
PRIMARY PATENT EXAMINER